Annual Report on the Activities of the Rental Office

January 1-December 31, 2004

Submitted by
Hal Logsdon
Rental Officer

The Residential Tenancies Act

The Rental Office and the appointment of a Rental Officer came into effect in 1988 with the passage of the *Residential Tenancies Act*. Prior to the passage of the *Residential Tenancies Act* all landlord tenant matters were heard by the Court. The *Residential Tenancies Act* was intended to provide a more expeditious and less formal dispute resolution mechanism for residential landlords and tenants and was part of a general trend across Canada to establish tribunals to deal with residential tenancy matters. The Act gives the Rental Officer specific powers and duties designed to resolve disputes between landlords and tenants who have entered into residential tenancy agreements.

The Role of the Rental Office

- ### A Provider of Information to Landlords and Tenants

  The Rental Office is a convenient place for landlords and tenants to obtain information regarding their rights and obligations under the *Residential Tenancies Act*. Many landlord-tenant problems are solved simply by providing landlords and tenants information concerning their respective rights and responsibilities. Many tenants and a surprising number of landlords are unaware of the legislation that governs their relationship. The provision of information is probably the single most important function of the office, often serving to eliminate conflict and problems before they start.

  The Rental Office maintains a toll-free telephone number which can be used anywhere in Canada. We receive numerous calls each day seeking information concerning rights and obligations of landlords and tenants and the process for filing applications and resolving disputes.

  The Rental Office also provides written information, including a simple to read booklet outlining the major aspects of the *Residential Tenancies Act*, short fact sheets on selected topics and numerous standard forms, including a tenancy agreement. Like the day-to-day inquiries, the written material helps both landlords and tenants acquire an understanding of mutual rights and responsibilities to help to solve problems before they start.

  The Department of Justice maintains a website for the Rental Office that contains all of the written material as well as a link to the legislation and a searchable database of Rental Officer decisions.

  The Rental Officer is also available to make presentations or participate in forums with tenants, property managers or others involved in residential tenancy matters. We provide these services free of charge in the belief that informed and knowledgeable landlords and tenants are more likely to respect the rights and obligations of each other and less likely to end up in a conflict situation.

- **Dispute Resolution**

  Landlords and tenants are encouraged to attempt to resolve disputes themselves. Often, the information provided to the parties regarding their legal rights and obligations helps the parties resolve the dispute but a dispute resolution process is available to both landlords and tenants. The dispute resolution process can be initiated by a landlord or tenant by filing an Application to a Rental Officer.

  On the filing of a application, the Rental Officer may investigate to determine the facts related to the dispute. Applications involving the physical condition of premises are often best understood through an inspection of the unit. Similarly, applications involving third parties, such as utility suppliers are often investigated.

  Occasionally, the investigation leads to a resolution of the dispute by agreement. For example, a tenant may file an application when a security deposit has not been returned and no statement of the deposit has been provided to the tenant. A brief investigation into the matter may reveal that the landlord was unaware of the new address of the former tenant or of his responsibility to produce a statement. The production of the statement may lead to agreement between the parties and the withdrawal of the application.

  Occasionally, the parties will agree to a mediated solution to the problem without recourse to a formal hearing or the issuance of an order. If the parties wish to try to settle the issue by mediation, the Rental Officer will assist them in the resolution of the matter and the preparation of a mediated agreement.

  Often, landlords and tenants can not agree or, more often, one of the parties wants a decision which can be enforced, should the other party fail to abide by that decision. In these cases, the Rental Officer will hold a hearing and, after hearing the evidence and testimony of both parties, render a decision. The Rental Officer will issue a written order along with reasons for the decision. Orders by a Rental Officer may be filed in the Territorial Court and are deemed to be an order of that court when filed. Most disputes are settled in this manner as the majority of disputes concern non-payment of rent and an enforceable decision is desired by the applicant.

- **Enforcement of the Act**

  The contravention of certain sections of the *Residential Tenancies Act* and certain actions described in the Act are offences. On summary conviction, offenders are liable to a fine. Few choose to ignore the law when informed but occasionally the Rental Officer is required to investigate allegations of contraventions which could lead to charges being laid.

Rental Office Activities

Mr. Hal Logsdon served as Rental Officer throughout the year. Mr. Logsdon's appointment was renewed for a three year term on April 1, 2003. Ms. Kim Powless continued to serve as the Rental Office Administrator during the year.

More and more landlords and tenants are asking about information on the website. In response, we have added almost all of the written public information available in our office to the site. The tenancy agreement is now available in PDF format and can be completed electronically and printed. There is now a searchable database which allows users to access filed orders. Our *Information for Landlords and Tenants* booklet has also been added to the website as well as the *What You Should Know About....* series of information leaflets.

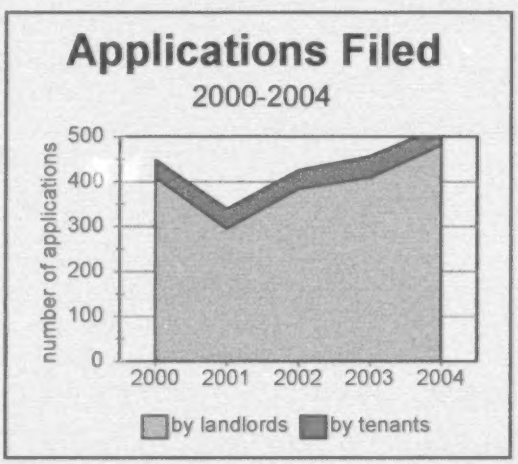
Our toll-free line continues to be the first line of inquiry for most landlords and tenants. We receive numerous calls every day seeking information.

Rental Officers have made numerous recommendations to the Department of Justice over the years concerning amendments to the *Residential Tenancies Act*. This year, the Rental Officer consulted with the Department on a review of these recommendations to assist the Department with the production of a consultation paper. The paper will be released by the Department in March, 2005 and began a public consultation process on the reform of the Act.

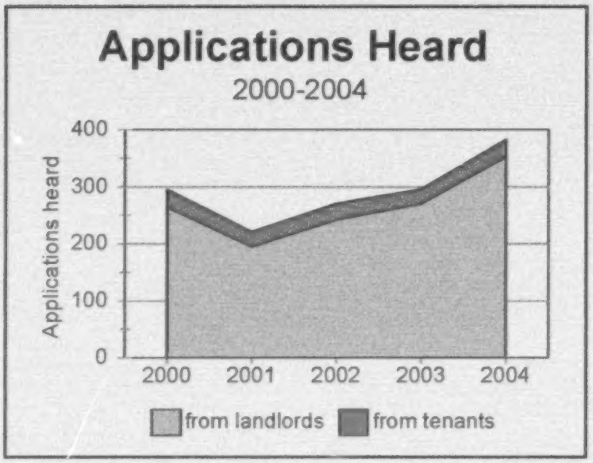
Trends and Issues

Continuing apartment construction in Yellowknife has raised the vacancy rate in 2004 and stabilized rent increases. Canada Mortgage and Housing Corporation reported an average Yellowknife apartment vacancy rate of 3.0% in October, 2004 up from 1.7% the previous year. Following steep rent increases averaging 8.3% in 2003, the average rent increase in 2004 was only 1.1%.

The total number of applications filed increased by 14% in 2004 to 523. This is the largest number of applications filed in the past 7 years, exceeding even the 1998 level which included what is now Nunavut. Of these, 383 resulted in a hearing. The number of hearings held increased by 29% over the 2003 level.

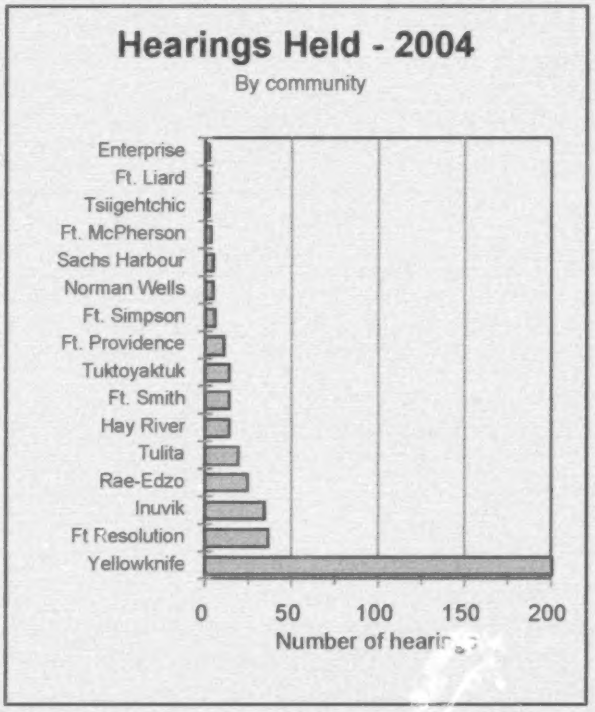


The increase in the number of hearings held in 2004 can be largely attributed to increased applications from social housing landlords in Fort Resolution and Rae-Edzo and to a lesser extent in Tuktoyaktuk and Tulita. It would appear that much of the increase can be attributed to several social housing landlords seeking remedies for non-payment of rent.



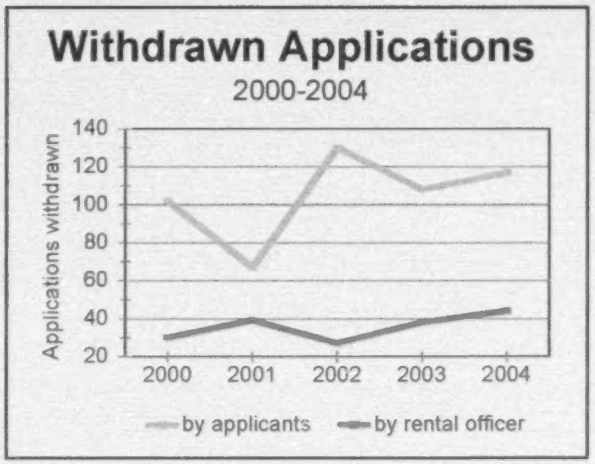
Of the 383 hearings held across the Northwest Territories in 2004, 92% were based on applications filed by landlords. Only 8% of the hearings were based on tenant applications. Over half of the hearings related to premises in Yellowknife.

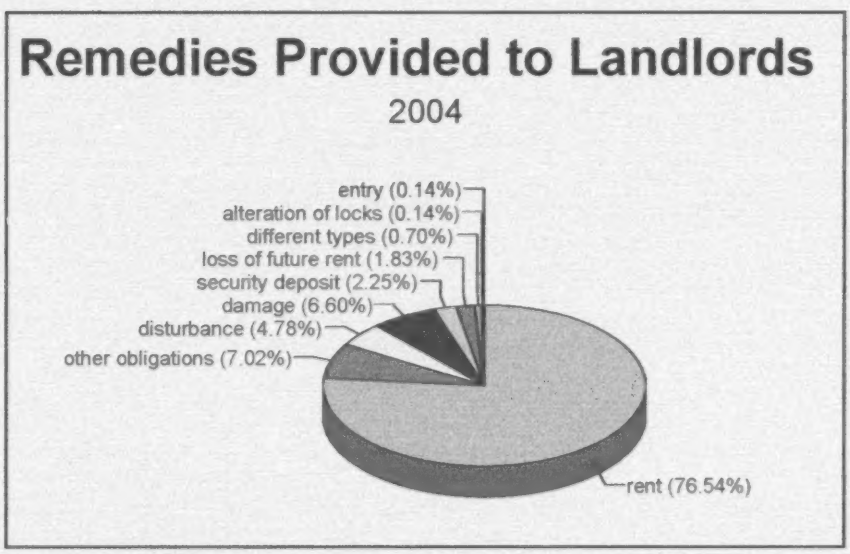
Of the hearings held, 318 were conducted in person, 54 were conducted by telephone and 11 conducted by videoconference. Telephone hearings continue to be an effective way to hear matters in a timely and cost-effective manner, particularly when only one or two applications are received from a community outside Yellowknife or when the parties reside in different communities. Video-conference hearings are a great improvement over telephone hearings but the number of locations where video facilities exist is still very limited.



Often, the dispute between parties is resolved to the satisfaction of the applicant before a hearing is held, resulting in the withdrawal of the application by the applicant. In other cases, the application is withdrawn by the Rental Officer because the applicant has failed to serve the application on the respondent.

The number of applications withdrawn by applicants remained high in 2004 at nearly 31% of applications filed. While it is encouraging to see that so many disputes are settled without recourse to adjudication, it is also the case that some landlords file promptly if rent is not paid on time and withdraw the application if the rent is paid prior to the hearing date. The time it takes to obtain a judgement for rent and the lack of any filing fee for applications encourages landlords to file shortly after a tenant goes into rent arrears. Unfortunately it also results in increased administration and cost for the Rental Office.





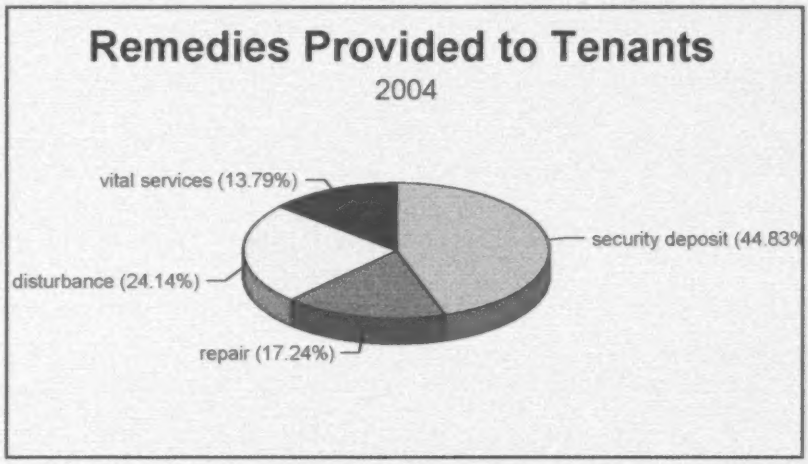
The majority of applications are filed by landlords due to non-payment of rent. Most of these are uncontested by tenants.

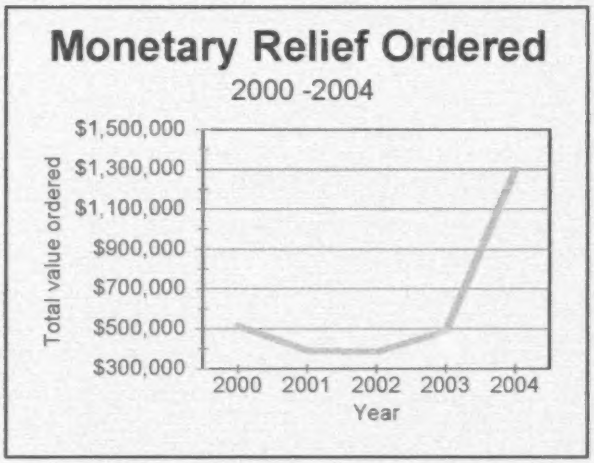
In cases where arrears are high, the hearing process often proves useful, permitting the landlord and tenant to work out, with the assistance of the Rental Officer, a consent order for the scheduled repayment of the debt. However, where the rent arrears are low, the hearing process is usually a routine matter resulting in an order terminating the tenancy agreement unless the arrears are paid in full by a specific date.

The *Residential Tenancies Act* permits a landlord to serve a Notice of Termination on a tenant when a tenant has repeatedly failed to pay the rent on the days it is due but such a notice must be accompanied by an application to a rental officer and if the tenant fails to give up possession, the matter proceeds to a hearing. There is no provision that makes such a notice ineffective on the payment of the arrears or permits the issuance of a termination order without benefit of a hearing, even when the application is undisputed. This provision results in many hearings regarding undisputed rent arrears which are unnecessary. The hearings involve significant expenditure of public money and process time and do little to serve either landlords or tenants.

Although landlords file the majority of applications, tenants rely on the Rental Office as a source of information and make good use of the toll-free number to make inquiries. The Rental Office web page has also been significantly expanded and many inquiries are referred to the page for written information.

The number of orders issued for loss of future rent increased somewhat in 2004 reflecting an increase in the vacancy rate in Yellowknife and the inability of landlords to immediately re-rent on the abandonment of a term tenancy agreement.



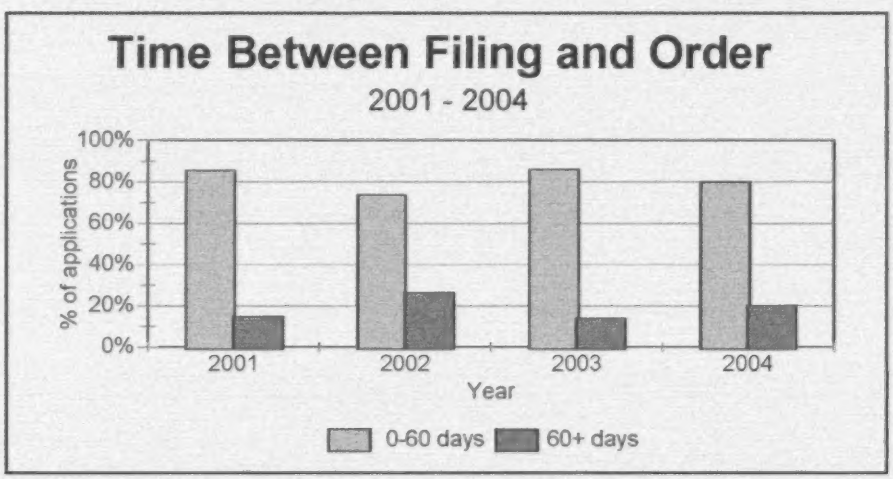


Most remedies provided to tenants related to the return of security deposits. Other remedies provided orders related to disturbance and failure to maintain the rental premises.

In 2004, 328 orders were issued which required monetary payment to be paid by one party to the other. Both the number and total value of such orders increased significantly from 2003 levels resulting in a total value of orders of almost $1.3M. This increase was due in large part to orders issued for rent arrears in Rae-Edzo.

The percentage of terminations ordered increased marginally in 2004. It should be noted however that many of these termination orders were conditional in nature and did not necessarily result in the termination of the tenancy agreement. In many cases involving rent, the order issued will terminate the tenancy agreement unless the tenant pays the rent arrears by a particular date. We have no way of tracking how many orders for termination actually result in a termination of the tenancy agreement but we suspect that many conditional termination orders are satisfied and the tenancy continues.

The length of time it takes from when an application is filed to the time it is heard depends on a number of factors, some of which are outside the control of the Rental Office. Users of the services occasionally complain about the length of time it takes to resolve a dispute and we continue to do what we can to make the administration of the process move as rapidly as possible.



In 2004 80% of applications were heard within 60 days of filing compared to 86% in 2003.

It has been our experience that where the filed application is not delayed by mail, the applicant serves the respondent quickly, the hearing notices are deliverable and the parties do not seek any postponements, an application will be heard within 4-6 weeks of filing. However any or all of the above factors can delay the process considerably, and occasionally do.

Statistics for the Year
January 1, 2004 to December 31, 2004

Applications to a Rental Officer
2000 -2004

	2000	2001	2002	2003	2004
Applications Filed	448	339	426	457	523
By Landlords	409	295	384	409	481
By Tenants	39	44	42	48	42
Applications Heard	295	221	271	296	383
From Landlords	264	195	242	270	353
From Tenants	31	26	29	26	30
Applications Withdrawn	132	106	157	146	161
By Applicants	102	67	130	108	117
By Rental Officer	30	39	27	38	44

Hearings Held, by Community and Type
2004

Community	in person	by phone	by video	TOTAL
Yellowknife	206	0	0	206
Inuvik	21	5	8	34
Hay River	1	12	0	13
Fort Liard	1(YK)	0	0	1
Fort Providence	0	10	0	10
Fort Resolution	32	4	0	36
Fort Smith	8	5	0	13
Fort McPherson	0	2	0	2
Fort Simpson	0	2	3	5
Norman Wells	0	3	0	3
Rae-Edzo	24	0	0	24
Sachs Harbour	0	3	0	3
Tsiigehtchic	0	1	0	1
Tuktoyaktuk	7	6	0	13
Tulita	17	1	0	18
Enterprise	1	0	0	1
TOTAL	318	54	11	383

Remedies Ordered After a Hearing
2002-2003

Landlords	2003	%	2004	%
Rent (Section 41)	364	72%	545	77%
Tenant Damages (Section 42)	28	6%	47	7%
Disturbance (Section 43)	30	6%	34	5%
Other Obligations of Tenant (Section 45)	52	10%	50	7%
Security Deposit (Sections 14 & 18)	14	3%	16	2%
Loss of Future Rent (Section 62)	4	0.8%	13	2%
Termination for Sale or Change of Use (Section 58 & 59)	7	1%	0	0%
Compensation for Overholding (Section 67)	2	0.4%	0	0%
Termination of Different Types (Section 57)	2	0.4%	5	0.4%
Alteration of locks (section 25)	0	0%	1	0.1%
Entry (section 28)	0	0%	1	0.1%
Tenants	**2003**	**%**	**2004**	**%**
Security Deposit (Sections 14 & 18)	9	38%	13	45%
Maintenance (Section 30)	5	21%	5	17%
Disturbance (Section 34)	1	4%	7	24%
Vital Services (Section 33)	2	8%	4	14%
Order to Pay Rent to Rental Officer (Section 32)	1	4%	0	0%
Landlord's Entry to Premises (Section 28)	2	8%	0	0%
Return of Personal Property (Section 66)	1	4%	0	0%

Terminations Ordered*
2000-2004

	2000	2001	2002	2003	2004
Requested by Tenant	1	0	1	0	3
Requested by Landlord	104	89	114	115	158
As % of Applications Heard	36%	40%	42%	39%	42%

*includes orders which terminate tenancy agreements only if specific conditions are not met.

Value of Compensation Ordered
2000-2004

	2000	2001	2002	2003	2004
Total Orders Granting Monetary Relief	239	175	203	238	328
Total Value of Orders Issued	$514,486	$390,358	$385,242	$487,768	$1,298,310
Average Value	$2153	$2231	$1898	$2049	$3958

Elapsed Time Between Filing Date and Hearing Date
Applications Heard During Period
2001-2004

	2001	%	2002	%	2003	%	2004	%
0-30 days	58	26.2%	82	30.3%	128	43.2%	133	34.7%
31-60 days	131	59.2%	118	43.5%	127	42.9%	173	45.2%
61-90 days	22	10.0%	55	20.3%	15	5.1%	62	16.2%
91-120 days	6	2.7%	12	4.4%	22	7.4%	7	1.8%
120+ days	4	1.8%	4	1.5%	4	1.4%	8	2.1%